

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOHN JIN LEI,

Plaintiff,

v.

NATIONSTAR HOME LOANS
SERVICING LP, *et al.*,

Defendants.

Case No. 2:11-CV-01624-KJD-PAL

ORDER

Plaintiff's Complaint was filed on October 7, 2011. Federal Rule of Civil Procedure 4(m) requires service of summons and complaint to be made upon a defendant 120 days after the filing of the complaint. The 120 day time period for effecting service of the summons and complaint upon Defendants expired no later than February 4, 2012. On February 24, 2012, the Court ordered Plaintiff to file proof of service of the summons and complaint on Defendant Merscorp no later than March 25, 2012 and warned Plaintiff that failure to respond would result in the dismissal of his complaint.

Though the time for doing so has passed, Plaintiff has failed to file proof of timely service of the summons and complaint on Merscorp or to otherwise respond to the Court's order. Therefore,

1 the Court dismisses Plaintiff's complaint without prejudice against the Defendant Merscorp for
2 failure to serve Defendants in compliance with Rule 4(m).

3 Furthermore, on November 4, 2011, Plaintiff filed (#6) the Summons returned executed form
4 as to Mortgage Electronic Registration Systems, Inc. However, the form reveals that even if service
5 was attempted it was executed by Plaintiff himself. Additionally, the Summons Returned Executed
6 (#7) as to Defendant Nationstar Home Loans Servicing LP reveals that if the summons and
7 complaint were served, service was effected by Plaintiff. However, Federal Rule of Civil Procedure
8 4(c)(2) requires that a person, not a party to the case or action, serve the summons and complaint.
9 Therefore, proof of service in compliance with Rule 4 as to Defendants Mortgage Electronic
10 Registration Systems, Inc. and Nationstar Home Loans Servicing LP have not been filed. Any proof
11 of service filed must demonstrate that a party other than Plaintiff served the summons and complaint
12 and must show that the complaint was served with the summons.

13 Accordingly, IT IS HEREBY ORDERED that Plaintiff shall have up to and including April
14 24, 2012 to file proof of service of the summons and complaint within the allowed time. Plaintiff
15 must also show that the form of service executed by Plaintiff is expressly allowed by the Federal
16 Rules of Civil Procedure. If Plaintiff fails to respond or to file proof of service, the Court will
17 dismiss the complaint without prejudice in accordance with Federal Rule of Civil Procedure 4(m).

18 **IT IS SO ORDERED.**

19 DATED this 10th day of April 2012.

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23 Kent J. Dawson
24 United States District Judge
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